In the Official Action mailed on **3 April 2007**, the Examiner reviewed claims 1-33. The disclosure is objected to because of informalities. Claims 4, 15, and 26 were objected to because of informalities. Claims 4-6, 11, 15-17, 22, 26-28 and 33 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 12-33 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-33 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/654,222, in view of Bennett (USPN 6,934,935 hereinafter "Bennett"). Claims 1-10, 12-21 and 23-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bennett. Claims 11, 22, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bennett, in view of Angel (USPN 6,314,558 hereinafter "Angel").

Objections to the Specification

The disclosure was objected to because of informalities. Applicant has replaced paragraph **[0001]** to include the actual application serial number and the actual filing date.

Applicant has replaced paragraphs **[0003]** and **[0006]** to correct the use of trademarks in the disclosure.

Furthermore, the hyperlink in paragraph **[0006]** was deleted.

No new matter has been added.

Claim Objections

Claims 4, 15, and 26 were objected to because of informalities. Applicant has deleted the repeated words to overcome the objection.

Rejections under 35 U.S.C. §112

Claims 4, 15, and 26 were rejected as having insufficient antecedent basis. Applicant has amended Claims 4, 15, and 26 to correct the antecedent basis.

Claims 5, 16, and 27 were rejected as having insufficient antecedent basis. Applicant has amended Claims 5, 16, and 27 to correct the antecedent basis.

Claims 11, 22, and 33 were rejected for including a trademark/trade name. Applicant has amended Claims 11, 22, and 33 to remove the trademark/trade name from the claim. Note that Java bytecode is one implementation of platform-independent bytecodes.

No new matter has been added.

Rejections under 35 U.S.C. §101

Claim 12 was rejected under 35 U.S.C. §101 because a computer-readable storage medium was not limited to tangible storage devices. Applicant has amended claim 12 to disavow the inclusion of computer instruction signals embodied in a carrier wave or transmission medium

Claim 23 was rejected under 35 U.S.C. §101 because the mechanism appears to be software alone. Applicant has amended claim 23 to clarify that the apparatus is directed to circuits within a processor which are configured as specified in claim 23. These amendments find support in paragraphs [0035]-[0036], [0063], [0083], FIG. 1 of the instant application (i.e., computing devices 118 and 120, and their associated processors, include circuits configured to perform the operations specified in Claim 23). Applicant has also amended claims 24-25, 27-30, and 32 to correct antecedent basis.

Non-statutory Obviousness-Type Double Patenting

Claims 1-33 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/654,222, in view of Bennett.

Applicant has included a terminal disclaimer to overcome this rejection.

Rejections under 35 U.S.C. §102(e)

Independent claims 1, 12, and 23 were rejected as being anticipated by Bennett. Applicant respectfully points out that the present invention instruments the root method after it is identified, *wherein instrumenting the root method involves dynamically patching the root method while the target application is executing* (see claim 7 and paragraph [0015] of the instant application).

Examiner cites Bennett, column 6, lines 23-39 in rejecting claim 7 of the instant application (see page 10 of the Office Action Letter mailed on April 3, 2007). However, applicant respectfully points out "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference." MPEP §2131. There is nothing in Bennett which discloses *instrumenting a root method by dynamically patching the root method while the target application is executing*. Specifically, Bennett does not disclose "**dynamically patching the root method while the target application is executing.**"

Accordingly, Applicant has amended independent claims 1, 12, and 23 to clarify that the present invention instruments the root method after it is identified, wherein instrumenting the root method involves dynamically patching the root method while the target application is executing. These amendments are supported in claim 7, and paragraph [0015] of the instant application.

Hence, Applicant respectfully submits that independent claims 1, 12, and 23 as presently amended are in condition for allowance. Applicant also submits that claims 2-11, which depend upon claim 1, claims 13-22, which depend upon claim 12, and claims 24-33, which depend upon claim 23, are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

CONCLUSION

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

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